

In the Matter of Merchant Mariner's Document No. Z-98214-D2 and All
Other Seaman Documents
Issued to: Wesley A. Palmer

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1422

Wesley A. Palmer

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 24 June 1963, and Examiner of the United States Coast Guard at New Orleans, Louisiana revoked Appellant's seaman documents upon finding him guilty of misconduct. The two specifications found proved allege that while serving as Boatswain on board the United States SS STEEL SURVEYOR under authority of the document above described, on 11 February 1963, Appellant assaulted one crew member with his fists and another with a dangerous weapon.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of not guilty to the charge and both specifications.

The Investigating Officer introduced in evidence depositions by the two seamen allegedly assaulted and the testimony of an eyewitness to the incident involving the dangerous weapon.

The only evidence in defense was testimony by a witness concerning his prior satisfactory service with Appellant as a shipmate.

FINDINGS OF FACT

On 11 February 1963, Appellant was serving as Boatswain on board the United States SS STEEL SURVEYOR and acting under authority of his document while the ship was in the port of Houston, Texas.

About 2300 on this date, Appellant and messman Mullen were engaged in an argument. Seeing that Appellant was intoxicated, Mullen started to walk away when he was attacked from behind by Appellant. He beat Mullen with his fists until Mullen fell to the deck. Mullen received an injury on the back of his head which required five stitches.

A short time later, Appellant entered the crew's mess hall where fireman-watertender Lockey was sitting in a chair facing the door. Appellant has his hands behind his back holding a twelve to fourteen inch long wrench and told Lockey that he wanted to settle their "beef" on the dock. Lockey started to get up when Appellant struck him a glancing blow on the cheek with the wrench. Lockey hit Appellant with his fist knocking him to the deck, took the wrench away from him, and beat Appellant with the wrench until he was severely injured. Appellant was hospitalized. Lockey suffered an abrasion on his face and bruises.

Appellant's prior record consists of a month's suspension in 1943 for absence without leave and assault and battery; eight months' outright suspension plus probation in 1951 for assault and battery with a dangerous weapon; and an admonition in 1960 for fighting with another member of the crew.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the order or revocation is excessive and will cause Appellant extreme personal hardship since he has had no other livelihood since starting to go to sea in 1937.

OPINION

Appellant's contention that the order of revocation is excessive is without merit, particularly in view of his prior record which includes another offense of assault and battery with a dangerous weapon. As stated by the Examiner, it would endanger other seamen to permit Appellant to continue going to sea since he has twice exhibited his inclination to assault his shipmates with dangerous weapons. Consequently, the personal hardship involved is not material to the outcome. The order will be sustained.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 24 June 1963, is AFFIRMED.

E.J. Roland
Admiral, United States Coast Guard
Commandant

Signed at Washington, D.C., this 1st day of October 1963.